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Paper No. 25

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BOSTON, MA 02109

In re Application of

Eini, et al.

Application No. 09/653,267

Filed: August 31, 2000

Attorney Docket No. 00/20309

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**JAN 13 2004**

**OFFICE OF PETITIONS**

: DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), January 5, 2004, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the final Office action mailed June 11, 2003. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No response was received within the allowable period and the application became abandoned on September 12, 2003.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

- (2) the petition fee as set forth in 37 CFR 1.17(m);
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
- (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

A review of the application file did not reveal a response filed to the final Office action mailed June 11, 2003. The Request for Continued Examination is noted, however; petitioner is either required to file an amendment or and Information Disclosure Statement with the Request for Continued Examination. No amendment or Information Disclosure Statement filed after the final Office action was mailed was noted. It is concluded, therefore, that a proper response to the final Office action has not been filed and such a response must be filed before the application can be revived.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents  
United States Patent and Trademark Office  
Box 1450  
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306  
Attn: Office of Petitions

By hand: Office of Petitions  
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Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

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